

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

BRENTON D. THOMPSON,
Plaintiff,
v.
DANIEL L. WILLIAMS, *et al*,
Defendant

Case No. C06-5476FDB-KLS

**ORDER DENYING PLAINTIFF'S
MOTION FOR APPOINTMENT
OF COUNSEL**

This matter has been referred to Magistrate Judge Karen L. Strombom pursuant to 28 U.S.C. § 636(b)(1), Local Magistrates Rules MJR 3 and 4, and Rule 72 of the Federal Rules of Civil Procedure. The case is before the Court upon plaintiff's filing of a motion for appointment of counsel. (Dkt. #30). Plaintiff has been granted *in forma pauperis* status in this case. After reviewing the motion, defendants' response thereto and the balance of the record, the Court finds and ORDERS as follows:

There is no right to have counsel appointed in cases brought under 42 U.S.C. § 1983. While the court, under 28 U.S.C. § 1915(e)(1), can request counsel to represent a party proceeding *in forma pauperis*, it may do so only in exceptional circumstances. Wilborn v. Escalderon, 789 F.2d 1328, 1331 (9th Cir. 1986); Franklin v. Murphy, 745 F.2d 1221, 1236 (9th Cir. 1984); Aldabe v. Aldabe, 616 F.2d 1089 (9th Cir. 1980). A finding of exceptional circumstances requires an evaluation of both the likelihood of success on the merits and the ability of plaintiff to articulate his claims *pro se* in light of the complexity

1 of the legal issues involved. Wilborn, 789 F.2d at 1331.

2 Plaintiff states in his motion that he has not alleged a frivolous or malicious claim, that because he is
3 incarcerated out of state, his ability to investigate the facts of his case are significantly hindered, the claims
4 in his complaint raise complex factual and legal issues, he is unable to pay attorney's fees due to his
5 indigent status, both he and the Court will benefit from the assistance of counsel, and the absence of
6 counsel likely will have a prejudicial impact on the minds of a jury, should this case go to a jury trial.

7 The reasons put forth by plaintiff, however, do not constitute exceptional circumstances. Rather,
8 they largely are those applicable to other prisoners, including those incarcerated out of state. In addition,
9 plaintiff has not shown the facts or legal issues he raises are necessarily complex. Plaintiff also has not
10 shown a likelihood of success on the merits or that he is unable to articulate his claims *pro se*. Indeed,
11 plaintiff's ability to do so is shown not only by the fact that he submitted a forty-four page complaint,
12 including attachments, but also already has filed several motions in this case.

13 Accordingly, plaintiff's motion for appointment of counsel (Dkt. #30) hereby is DENIED.

14 The clerk is directed to send a copy of this Order to plaintiff and counsel for defendants.

15 DATED this 1st day of March, 2007.

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21 Karen L. Strombom
22 United States Magistrate Judge
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